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Ŋgok : Ŋ'yamin.

Ten eyamişo 'l-Maasai, pe e'yu kulle, anaké 'n-giri, anaké 'n-gulye-tüküliin kuitik, metabaikinio.

Kake 'ten eitu eyamişo 'l-moruak kituaak; il-ayiok oleo eyamişo eitu anyu kulle, or 'n-giri, or 'n-gulye-tüküliin.

Naa keraa ee-[illegible] ten-'l-Maasai ten eyamişi 'n-diikitin kuitik. Eiko 'l-Maasai ten eyamişi 'n-giteŋ.

Ten eyamu 'l-moran en-giteŋ, ore y' eitoki ol-openy, neinok; ore, ten eo ilkuni 'l-teŋŋanak eitoo, nelikaye pökin in-doŋeni uni.

Ore ten eeŋ ol-openy pe ele aimaye iyeligito, pe eitu ol-murrani ele ol-openy eitu, nelikar eje lido-murrani [illegible], "Maro"; meitalaki ilo eitu. Elekayo 'l-kulikae kake eje "Maro" 'n-doŋeni; ore lido tiŋo "Maro," nelikayo ol-kuiŋeno. Naa, ten eiteruaki pökin eaje, "Maro," nelikayo 'l-kuiŋeniko pökin.

Crimes : Theft.

If a Masai steals milk, or meat, or other small things, he is not fined.

Grown up people, however, rarely steal; it is the boys who take the milk and meat, &c.

Whilst the Masai do not consider it wrong to steal trifles of this nature, they dislike immensely having their cattle stolen.

Should any warriors steal an ox and be caught by the owner, they would have to pay; and if three men took part in the theft, each would have to pay three heifers.

In the event of the owner following up the thieves and catching them in the act of slaughtering the stolen animal, one of the warriors might see him and call out "Guilty," in which case he would not be fined heavily. Whilst the others would be fined in heifers, he who had cried "Guilty" would only have to pay a young bull. Were all of them to cry "Guilty," they would all be fined in young bulls.

Eŋ-gitaaŋara.

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Ten eitaaŋ ol-murrani en-dito, naa aiŋye eiyam.

Ten enyoru ol-murrani en-dito eitu, eitiliki eitaaŋ, pe etum eiyama.

Seduction.

If a warrior causes a woman to conceive, he marries her.

When a warrior loves a woman very much, he purposely seduces her to enable him to take her as wife.

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* Lit. blind-leg.

"I say, thou art no longer of moran (a circumcised, a warrior), but of moruo (an elder). Take care of thy cattle, goats and sheep, and have regard for them. Give up the occupations of the warriors thou art now an elder".

"After this feast", remarks [illegible], "it all depends on the warrior whether he chooses to take a greater or lesser part in raids. Usually he gets married at once and lives with his wife either in his father's kraal or in the warriors' kraal (manyatta) until all his age-mates have married. Only then he is recognized as of moruo; each one builds his own kraal and lays aside the clothes, decorations and the pigtail of the warriors".

It is evident that the effect of the ceremony is rather limited. It allows an initiate to take a wife, but, even after that, the initiate is not yet "recognized" as an elder. It is as if he were given the elder's status in anticipation of the time when all his age-mates are married. At which time only the status of elder becomes for all purposes official.

A very detailed description of "the [illegible] of milk" is given by J. V. [illegible], but the ceremony is mentioned also by other authorities. Fox,[illegible] states that "this ceremony is performed by each warrior individually",[illegible] and [illegible] tells us that it occurs at the village of the initiate's father and that four [illegible]-elders take a special part in it.

The ceremony is preceded by a dance. The candidate is clothed in women's clothes and the first two of the elders place women ear-rings (surutya) on him.[illegible]

A test follows, in which the candidate is expected to confess how many times he has "stolen milk", i. e. taken milk by himself or with people other than his age mates. Two heads of cattle are usually paid as a fine by a guilty candidate. He is then solemnly instructed by one of the elders, apparently the most senior, about "what he must and must not do after he has drunk and become an elder". He now drinks the milk, "very little however" at this

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[illegible] Fox, l. c., p. [illegible].

[illegible] He says also that "the ceremony usually takes place nowadays a year or two after the E-unoto owing to the Government policy of reducing the period of warriorhood as much as possible".

[illegible] These ear-rings, surutya, are also worn by elders. For this reason some of our authorities describe the earrings put on by candidates as the elder's ear-rings or decorations. But the whole attire of candidates is undoubtedly of a feminine type.

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E'-[illegible] : Assault

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Resulting in the loss of an eye—no penalty.

Resulting in the tearing of an ear-lobe—a fine of one ewe.

Resulting in the loss or breaking of a tooth—a fine of one ewe.

Resulting in the breaking of a bone—an ox of the offender's (he may not have been the aggressor originally) is slaughtered then and there, and all partake of it. The injured man must not see the skin of the slaughtered ox. At the same time, a fine of one heifer is inflicted, but if the injured man should die before this has been handed over, twenty and nine cattle may have to be paid subsequently by his slayer.[1] 682

To strike a man with an arrow, a club, spear, sword, or knife would result in the imposition of a fine of one fat sheep or one ox, according to the extent of the cuts or other injuries inflicted.

The preceding penalties refer to Masai only. If the murdered man be a Dorobo or savage (Il-meek), and if he was known to and a friend of the Masai, twenty and nine cattle must be paid to his relatives. In the case of the murder of or assault on a stranger, no penalty is laid down. 628 628 682

The reiteration of the number nine in the fines prescribed may be explained as follows. A certain round number of cattle is settled upon as fine or compensation. To this number (generally twenty or forty) must be added nine more for the body of the murdered man, in order to wipe out the stain of blood which lies between the rival parties. These nine cattle are accounted for according to the orifices of the human body, thus two for the ears; two for the eyes; two for the nose; one for the mouth; one for the urethra and one for the anus.

'Nyamin : Theft

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Theft of any kind is almost unknown among the Masai, but if one Masai should steal cattle from another, the thief must pay five beasts for each beast stolen, the sex of the animals paid depending on the sex of the stolen beasts. If sheep are

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[1] See Hollis, *The Masai*, p. 310.

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685 stolen, the fine is one ox for each sheep stolen. In the cases of thefts from [illegible], the fines are always reduced, because it is held by the Masai that all the cattle in the country belong, in reality, to them.

If the thief has no cattle, he must give his daughter in marriage to the man whom he has robbed if the latter is a Masai. He gets paid the usual dowry for her, however. If the theft is one of money (a practically unknown crime), the amount of the fine is regulated by the amount of money stolen and the fine must be paid in cattle.

The offence of arson is not known, and there is no stated penalty. If, as a result of grass-burning or through carelessness, a man is the accidental cause of another's kraal being destroyed by fire, he is supposed to bring a bottle of honey, or a cow,[1] by way of compensation. No fine is laid down.

En-gigoro : ADULTERY. *En-gitaapare* : SEDUCTION

686 [762] If it be known that a man has lain with a woman of another age, he is cursed and has to pay two bottles of honey and two cows before the Elders will remit the curse.[2] Should he be caught in the act, the friends of the cuckold tie him up at the kraal door and he is beaten, pelted with cow-dung and spat upon by everybody, including the women. If the offender is a warrior, his pigtail is cut off and he is cursed. This humiliating punishment is greatly dreaded.

It is no offence for a man to commit fornication or adultery with a woman or girl of his own age, but should a warrior fertilise an unmarried girl, it is considered very wrong. He [769] must pay a cow and a bottle of honey, and the child will be the property of the man the girl is going to marry.[3] If the girl is not engaged, the child will be the property of her father, or her eventual husband may take it. By arrangement, Masai warriors generally marry the girls they cause to conceive.

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[1] The Masai are not definite regarding the cow in this case. In fact, the Elders had a mild squabble on the point when the above information was being taken.

[2] See Hollis, *The Masai*, p. 311.

[3] Masai girls are often engaged to be married from their very earliest years.

from each side suckled each other's babies. Peace was then kept till it suited one side to break it. With Bantu tribes the Masai sometimes made such blood-brotherhood with intent to deceive, for they have no blood-brotherhood of their own. As among the Nandi, grass is a sign of peace, and a handful of grass constitutes a plea for mercy recognized by the Masai and those whom they count as more or less their equals, the *Il-mangati* or "enemies," such as other pastoralists, but not *Il-meek*, the Bantu agricultural tribes. 728

Legal Institutions

The Masai legal system seems to be less organized than that of the Nandi, and to depend even more on the force of public opinion than on the position and decision of the council leader. It appears that only in cases of homicide is there anything like a regular procedure. The Masai distinguish between intentional and accidental homicide, the difference being that for the latter there is no blood feud and the amount of compensation is smaller. The number of blood-cattle paid as compensation, *in-kishu o-l-oikop*, "murder cattle," varies, but may be as high as two or three hundred for a man; Hollis says 49 for a boy, and Merker 49 head of cattle and 49 goats and sheep for a woman. Fosbrooke gives the figures as 49 for a circumcised man, and 29 for a woman or uncircumcised man. The [illegible] are recognized as a group which pays and receives blood-cattle. The murder may be avenged by the dead person's kinsfolk who may try to kill the murderer; and if compensation is not paid, the resulting feud may involve all agnatic kinsmen on both sides. It is not clear whether killing of the murderer makes the avengers also liable to compensation. If the victim belongs to the same sub-clan as the murderer, no compensation is payable. If they belong to different sub-clans of the same clan, or to different clans, all members of the murderer's sub-clan contribute, and the cattle are divided among the members of the victim's sub-clan after his senior brother has received half the stock. When a settlement has been made, peace is made between the families concerned by an exchange of garments. Maguire gives details of three methods of dealing with cases of murder: (1) The relatives of the victim take all the murderer's cattle; they hold a council and, after giving a few cattle to certain elders and old women, the *laibons*, kraal-leaders, and some near relatives are returned to the owner; the rest they divide among themselves. (2) If action is not taken at once, the relatives of the murderer send a stick to the relatives of the victim, the acceptance of which implies an agreement to meet and settle the matter, and compensation is arranged, the figure named being 49 head of cattle, with nine more added to symbolize the human body (reckoned by the number of its orifices). (3) Sometimes the relatives of the victim do not take action for two years or more; they then raid the murderer's kraal by night and demand the number they want. For killing a smith, *ol-kunono*, no compensation was payable, nor was there a blood feud. If a smith killed a Masai, several warriors set out and killed several smiths. Theft (except of cattle) is apparently considered of little account: "If a Masai steals milk or meat or other small things, he is not fined. Grown-up people rarely steal," says Hollis. For cattle thefts, the thieves when caught were fined, seven head from each man concerned.

The general principle that a man is entitled to compensation for a wrong suffered is recognized by all Masai; and this recognition is extended to "foreigners" like Dorobo, provided the people concerned are well known to each other. On being accused, a man may submit to an oath, *ol-mumai*. In some cases a diviner of the type called [illegible] by Merker is employed to find a guilty person. The whole subject of Masai legal institutions needs detailed investigation. 681 685

Modern Administration

The Masai political structure has proved even more difficult of adaptation than that of the Nandi, since it lacked the clear-cut *pororiet* divisions of the latter. Up to 1918 the chief laibon in Kenya was accepted by the Administration as a paramount 631 648

/Not sure./

682 A person who attempts suicide must, in some districts, pay a head of cattle to the one who prevented him from carrying out his intention.

685 [illegible] Kidnapping and rape do not occur. Theft of cattle often leads to a fight if the thief and the person robbed belong to different bands lying far apart and at the same time to different tribes. Among fellow tribal and band members the theft of a head of cattle is atoned for with a fine of up to ten head of cattle, that of a sheep or a goat with the payment of a head of cattle. Anyone who has eaten some of a stolen head of livestock, even if he did not know that it was stolen, must contribute to the payment of the fine. If the stolen head of cattle is found still alive and is returned to the owner, this acts in such a mitigating way that in most cases no punishment at all takes place (9).

> 9. 2nd Moses /Exodus/ 22, 1 and 4: If anyone steals an ox or a sheep and slaughters it or sells it, he shall restore five head of cattle for an ox and four head of small livestock for a sheep. If the one stolen is actually found alive in his hands /the Ger. Haut, "skin," here evidently should be Hand, "hand"/, from ox to donkey to sheep, he shall restore double.

One who acts as accomplice in a theft pays half the fine, while the thief has to raise the other half. One who steals a spear must return it and is given a beating as punishment. If the spear had already been sold before the one robbed discovered the thief, the latter must pay the former a cow, while the spear remains with the present owner. Theft of a shield is punished with the payment of a female goat. One who kills a stranger's livestock without stealing it must provide a replacement.

677 685 The death penalty is given for treason in war and for deliberate incendiarism. Negligent incendiarism is not punished.

[310 cont.]

697 [626] There is no special punishment for cowardice in war. The warriors, however, mock the coward in front of the girls and make him ridiculous in their eyes.
673 One who makes anyone ill through sorcery pays a head of cattle to the one bewitched. If the latter dies, the sorcerer must pay the fine levied for murder and is himself driven away.

682 The death penalty is carried out in that a band of armed men attack the defenseless sinner and kill him with spears. For a war [311] crime the execution is carried out by warriors, for an assassin by those injured by him. Fines are usually paid in installments. In general their amount is not fixed for the individual offenses. In the one area this, in the other that is regarded as the norm. Diminished ability to pay because of previous livestock sickness or unsuccessful wars naturally lowers the fine. Moreover, if in the district the fellow members of the lineage or tribe of the perpetrator have a preponderance in numbers or power over those of the injured one, the fines are considerably smaller than in the opposite case; then murder is often punished as negligent homicide, or many a time even left entirely unpunished, just like other crimes or misdemeanors.
[672] Irresponsibility is regarded as mitigating in some districts, in others not. An attempt is not punished. Self-defense is not mitigating.
[illegible] A degrading punishment exists only for the warriors and consists of cutting off the guilty man's braid-coiffure, as is well known, one of the insignia of his standing. This punishment is said to be inflicted most frequently for rape committed on a married woman, less often also as additional punishment for theft. Innocent accused persons are compensated with a goat or a sheep.
734 672 The mentally ill occupy an exceptional position in the legal world only insofar as they are unable to pay fines. In most cases their people are then liable. The latter therefore keep in fetters the sick person who is inclined toward misdemeanors or crimes.
[756] Frequently, too, if an ol goiatiki does not succeed in curing him through magic remedies, he is tied to a tree at some distance from the kraal, to be devoured by predatory animals.

/211 cont./

672 only in settling [illegible] property claims, and then only in the rare cases in which self-help is not preferred to legal procedure. The prosecution of a punishable deed does not take place by official action, but only on the basis of a complaint raised by the injured party. Judicial proceedings are generally customary.

685 The procedure in the penal case of a livestock theft, which occurs frequently, is to be shown. It is to be assumed that an ox has been stolen in the pasture. If the boy tending the livestock observed the theft, he notifies the owner of the herd (father or brother of the herdsman) upon coming home in the evening. Otherwise the wives of the owner, in looking over the livestock, immediately notice the loss, since they know every head precisely. All the conversation in the kraal only revolves around the theft, and through that it becomes known on that same evening, not only in the home kraal, but also in the neighboring ones. The friends of the one robbed declare themselves ready to pursue the thief and track down the stolen head of cattle. If their investigation leads [692] to their discovering the ox or parts of it, so that the thief can be convicted, there are as a rule no judicial proceedings, since the perpetrator and his accomplices usually immediately declare themselves ready to pay the customary fine. If, however, the investi- [illegible] gation is without success, the person robbed turns to a sorcerer [illegible] (ol [illegible]), who, on the basis of an oracle (ol [illegible]), gives him a description of the appearance of the thief, whereupon the one robbed will accuse of the theft a man who fits this description. The [illegible] one so accused appears in the following proceedings as defendant, in the same way as, say, one who is charged on circumstantial evidence. The one robbed selects as leader of the proceedings a [illegible] respected old man who must have formerly once been speaker of the warriors. This man determines /212/ the day and place of the [illegible] proceedings and has this announced by a crier, who goes to the neighboring kraals, draws attention to himself by blowing a kudu or oryx horn, and informs the approaching people about the matter. Further, the judge summons plaintiff, defendant, and possibly witnesses by messengers. If the defendant refuses to appear, he is forcefully led up by friends of the plaintiff. Anyone may appear a as a witness. Relatives of the defendant may refuse both to give

[illegible] /

495 testimony and to appear. Other witnesses who do not appear are
681 punished with a beating by the party of the plaintiff. The proceedings, in which only male individuals may participate, take place as a rule under a shade tree close to the kraal in which the judge lives. Each new arrival, after he has greeted the judge, squats down on the ground in front of him. After those who were invited and a larger number of listeners have appeared, the proceedings begin. The judge rises and says the following prayer: 'Ng ai [illegible] [illegible], [illegible] = May God protect us, may he give us strength and livelihood; to which those assembled reply: [illegible] or [illegible] (may he give). Then they proceed with the inquiry. Plaintiff, defendant, and witnesses are heard, one after the other. They assert the truth either by the word [illegible] = in truth, or by 'Ng ai [illegible] = as certain that God may give me livelihood, or by various curses: [illegible] 'Ng ai [illegible] = may God kill me if I speak an untruth; [illegible] = may a spear kill me if I lie. With this last formula, one picks up a little sand with the spear point and brings this to the tip of the tongue. Another curse consists of chewing a few blades of grass and with that saying the words [illegible] 'Ng ai, i.e., may this grass be poison to me if I have lied before God.

For asserting truth, torture is customary, [illegible], i.e., on the string? The string of a bow is tied so tightly around the upper arm of the defendant that it cuts into the flesh. If the testimony has not succeeded in convicting the defendant and if he cannot prove his innocence by an alibi, an ordeal is used. The most common is the [illegible], i.e., the ordeal of the blood. The defendant is given a bowl with a mixture of blood and milk. Before he drinks, he says the words 'Ng ai [illegible], i.e., God, I drink this blood; if I have taken that [illegible] of cattle this blood will kill me. If the defendant does not die after eight to fourteen days, proof of his innocence is provided by that. Another ordeal is the [illegible], i.e., the ordeal of the dry wood. By accepting them, he invites God's punishment upon himself if he is guilty. He will then soon [illegible]/ be dead like the dry branch, whereas otherwise he will remain vigorous and healthy, as the green one still is. Less common is the

[illegible] *[389 cont.]*
ol moomai l ol gine, the ordeal of the line. A line is placed on the ground and a single horn is set at either end of it. This is a goat horn that is filled with a medicine made by a sorcerer. As soon as the defendant has stepped over the line, his lot will be, if he is guilty, the punishment of God, that is, in this case death. The effect of the ordeals rests on the firm belief in them. The guilty one is convinced that the punishment of God will have to strike him. He imagines that he is ill and sees his salvation only in an open [illegible] confession. He goes to the one robbed, confesses his deed, pays the customary fine, and begs for forgiveness. Only by gaining the latter can he escape the consequences of the false oath. The one robbed [illegible] must in this case -- if he himself does not wish to invite the punishment of God on himself -- grant the pardon and does so through words and spittings, whereby at the same time a friendship is initiated between the two. Besides the aforementioned ordeals there are two others which are not accompanied by curses. The *ol moomai l ol esigo l en gulugeh* or *ol moomai l ol esigo l ol geh* -- the ordeal of the stool made of earth. The defendant must sit down on a specially prepared lump of earth. If this crumbles under him, he is regarded as guilty. The other one, the *ol moomai l ol gine* (of the goat), is used only if the defendant is a non-Masai. The defendant, standing, takes a goat between his legs and cuts an ear off it. If the blood issuing from the cut spatters him, he is guilty.

The majority of the assembly decides whether and which *ol moomai* is to be used. The accused must submit to the ordeal, and, to be sure, only he alone. He may not substitute a proxy. It is never used against witnesses and plaintiff. The ordeal always constitutes the conclusion of the session, which the leader then terminates with the same prayer with which he began it.

If the ordeal has done no harm to the defendant within ten to fourteen days, he is completely cleared of suspicion. The one [illegible] robbed turns to a sorcerer (if he had already turned to such a one for the first proceedings, he now goes to another one), who again, through the *ol gidoi*, gives a description of the guilty one. As soon as the one described is found, there are proceedings against him.